

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PAUL REIFFER, :  
Plaintiff, : 22-CV-8466 (JMF)  
:-----  
-v- : ORDER  
MICHAEL WAYNE ATKIN, :  
Defendant. :  
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JESSE M. FURMAN, United States District Judge:

On December 9, 2022, Defendant filed a motion to dismiss the complaint. *See* ECF Nos. 9-11. In the alternative, Defendant moves, pursuant to 28 U.S.C. § 1404(a) to transfer the case to the United States District Court for the Central District of California.

Under Rule 15(a)(1)(B), a plaintiff has twenty-one (21) days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course. **That said, Plaintiff shall file a letter no later than December 14, 2022, indicating whether he consents to transfer of the case to the Central District of California.**

If Plaintiff does consent to transfer, the Court will transfer the case without further notice to the parties. If Plaintiff does not consent to transfer, then he shall file any amended complaint by **January 6, 2023**. Pursuant to Paragraph 1.B. of the Court's Individual Rules and Practices in Civil Cases, available at <https://nysd.uscourts.gov/hon-jesse-m-furman>, any amended complaint should be filed with a redline showing all differences between the original and revised filing. Plaintiff will not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss.

If Plaintiff does amend, by three (3) weeks after the amended complaint is filed, Defendant shall: (1) file an answer; (2) file a new motion to dismiss; or (3) file a letter on ECF

stating that he relies on the previously filed motion to dismiss. If Defendant files an answer or a new motion to dismiss, the Court will deny the previously filed motion to dismiss as moot. If Defendant files a new motion to dismiss, any opposition shall be filed within fourteen days, and any reply shall be filed within seven days of any opposition.

If no amended complaint is filed, Plaintiff shall file any opposition to the motion to dismiss by **January 6, 2023**. Defendant's reply, if any, shall be filed by **January 13, 2023**.

Finally, it is further ORDERED that the initial pretrial conference previously scheduled for January 18, 2023, is adjourned *sine die*.

SO ORDERED.

Dated: December 12, 2022  
New York, New York

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JESSE M. FURMAN  
United States District Judge